

GOVERNMENT OF MYSORE

**LABOUR AND MUNICIPAL ADMINISTRATION DEPARTMENT
(LABOUR)**

Labour Dispute.—Industrial dispute between the Workmen and the Management of the General Radio and Appliances Limited, 36/79, Silver, Jubilee Park Road, Bangalore City.

'Award of the Arbitrator—published.

Read the following papers :

(1) Letter No. nil, dated 9th January 1967 from Shri M. R. Meher, I.C.S. (Retired), 67/1520, Adarsh Nagar, Worli, Bombay-18.

Before Shri M. R. Meher, I.C.S. (Retd.), Arbitrator in the matter of an Arbitration between General Radio & Appliances Ltd., Bombay and its workmen.

A W A R D

READ—

Government of Maharashtra Industries and Labour Department Notification No. AJG 70(3) 66/L.A.B. II, dated 20th May 1966 ; Government of West Bengal, Labour Department Notification No. 3299 I.R./I.R. 10L-188/66, dated 19th August 1966 ; Delhi Administration Notification No. F 26(229) 66-Lab, dated 27th July 1966, as amended by Corrigendum, dated 29th November 1966 ; Government of Madras, Industries, Labour & Housing Department Notification No. G.O. (Rt.) No. 2308, dated 24th November 1966 ; Government of Bihar, Labour Department No. Notification III/D1 100 127/66, dated 10th August 1966. Government of Mysore Labour & Municipal Administration Department. Notification No. LMA/590/LLE/66, dated 30th December 1966.

Appearances—

Shri L. C. Joshi, Legal Adviser, Bombay Chamber of Commerce and Industry, Shri Y. A. Fazalbhoy, Managing Director of the Company and Shri G. V. Nevgi, Secretary for the Company ;

Shri C. L. Dudhia, Bar-at-law, Shri H. N. Trivedi, Shri R. V. Palekar and Shri S. V. Balel, for the Bombay General Employees Association ;

Shri R. Rengaswamy and Shri S. Narayanan, for the Madras State General Industrial & Commercial Employees' Union ;

Shri K. Banerji, Advocate, Shri A. Chatterji and Shri A. K. Roy, for General Radio and Appliances Employees' Union, Calcutta ;

Shri Y. D. Sharma and Shri C. L. Gadoo, for the General Radio and Appliances Ltd., Employees' Union Delhi ;

Shri K. Banerji, Advocate, Shri D. N. Pandey, Advocate and Shri V. P. Singh, for the General Radio & Appliances, Ltd., Patna Employees' Association ;

Shri K. Banerji, Advocate, Shri D. N. Pandey, Advocate and Shri E. Manjunatha Rao, for the workmen at Bangalore.,

1. These are references under Section 10A of the Industrial Disputes Act, 1947, by the respective State Governments of Maharashtra, West Bengal, Delhi, Bihar, and Mysore for arbitration of disputes between General Radio & Appliances Ltd., and its workmen at Bombay, Calcutta, New Delhi, Madras, Patna and Bangalore in respect of demands for wage scales, dearness allowance, etc.

2. The arbitration referred to me under Section 10-A for the Bombay workmen is in respect of the following demands :—

(1) Scales of pay.—The existing scales of pay shall be revised as under with effect from 1st January, 1966 :—

(a) Grade 1 : (Sweeper/Cleaners) : Rs. 30-3-60-5-90-6-150.

(b) Grade 2 : (Watchmen/Peon/Packers/Hamals, etc.,) :
Rs. 35-3-50-5-85-7½-130-10-200.

(c) Grade 3 : (Driver) : Rs. 60-5-85-7½-130-10-220.

(d) Grade 4 : (All Junior and Senior Clerical Staff, Typist, Stenos, Mechanios, Electricians, Salesmen, etc.,) :
Rs. 90-10-130-12½-205-15-280-20-400-25-575.

(e) Grade 5 : (Junior Officers) :
Rs. 200-12½-275-15-350-20-450-25-700.

(2) Adjustments.—(1) Those whose basic salaries are less than the minimum of the scales demanded shall be first brought to the minimum of the new scales and those whose basic salaries are between the two steps in the new scales demanded shall be stepped upto the next higher step in the grade and then given the adjustments demanded below :

(2) The existing salaries of all the workmen shall be adjusted into the above revised scales of pay and the workmen shall be granted increments thereon in the following manner :—

(a) Those who have completed service less than 5 years on 31st December 1965 shall be granted one increment on 1st January 1966.

(b) Those who have completed service of 5 years on 31st December 1965 shall be granted two increments on 1st January 1966.

(c) Those who have completed ten years' service on 31st December 1965 shall be granted three increments on 1st January 1966.

(d) Those who have completed fifteen and above years' service on 31st December 1965 shall be granted four increments on 1st January 1966.

(3) **Dearness allowance.**—All workmen shall be paid dearness allowance on the following scale system from 1st January 1966 :—

<i>Basic salary</i>	<i>D.A. Bombay Consumers</i> 541—550	<i>Price Index</i> <i>variation</i> <i>of 10 points</i>
On 1st Rs. 100 basic ..	130 per cent ..	5 per cent
On 2nd Rs. 100 ..	40 per cent ..	2½ per cent
On 3rd Rs. 100 ..	20 per cent ..	1½ per cent
On the Balance ..	10 per cent ..	1½ per cent

The minimum dearness allowance on the revised textile scale of dearness allowance for Bombay Cotton Textile Co-operatives calculated for all days of the month whichever is higher.

(4) **Provident Fund.**—Provident Fund subscription shall be increased from the present rate of 6½ per cent to 8½ per cent on basic salary plus D.A. per month and the Company shall contribute an equal contribution.

(5) **Leave Rules.**—All workmen shall be granted leave with full pay and allowances at the following rate from 1st January, 1966 :—

(a) *Privilege leave.*—Thirty days (excluding weekly off days and holidays) on completion of 11 months' service, to be accumulated up to 90 days.

(b) *Sickness.*—Fifteen days (excluding weekly off and holidays) per year to be accumulated upto 60 days.

(c) *Casual leave.*—Fifteen days during a calendar year. Unavailed days of casual leave shall be allowed to be encashed at the end of the year.

(6) **Holidays.**—All workmen shall be granted all Bank holidays during the year with full pay and allowances.

(7) **Gratuity.**—The existing scheme of gratuity shall be revised as under :—In the case of death, disability, or termination of employment by the Management, all employees shall be paid gratuity as under :—

(a) For service up to ten years: Half a month's basic salary for each completed year of service.

(2) For service up to ten years and more : $\frac{1}{3}$ th of a month's salary for each completed year of service.

(a) Salary for purpose of gratuity shall be the last substantial salary drawn by the employee concerned.

(b) In case of resignation by an employee, the minimum qualifying period of service shall be 15 years of service.

(c) A workman dismissed for gross misconduct shall also be paid gratuity except to the extent of financial loss caused by him.

(8) **Medical expenses.**—All workmen and their family members shall be given free medical treatment and shall be paid in cash for all medical expenses including prescribed medicines, injections, surgical operation, etc.

(9) **Uniforms.**—Peons, packers, watchmen and drivers shall be given four sets of uniforms every year and these uniforms shall be washed at the expenses of the Company twice a week.

(10) **Umbrellas and raincoats.**—Every employee doing out-door duties shall be given an umbrella and raincoat once in two years.

(11) **Washing allowance.**—All salesmen shall be given a washing allowance of Rs. 10 per month to maintain neatness.

(12) **Travelling charges.**—All workmen and their family members shall be paid II class travelling charges once in 2 years for going out station and coming back from one's native place or any place in India upto a distance of 1,000 kilometres.

(13) **Lunch Allowance.**—Any employee working during lunch time shall be paid lunch allowance of Rs. 1.50 per day.

(14) No employee shall be made to retire from service till he completes 60 years of age.

(15) The working hours shall be revised as under :—

10-00 A.M. to 5-30 P.M. with one hour's recess on week days.

10-00 A.M. to 1-00 P.M. on Saturdays.

3. The demands made on behalf of the workmen in other branches are similar, in some cases, with some variations, and there are some additional demands which will be dealt with in this Award at the appropriate place.

4. In support of the demands the Bombay General Employees' Association has made the following general submissions in its statement of claim :—The Company has been in existence for nearly 30 years. It deals in radios, electrical goods, home appliances, canteen equipments

air conditions, etc. It is a sole distributor of National Ecko and Pye radios throughout India. It is a well established and prosperous concern. It employs about 190 employees in Bombay and about 275 in other branches in India. The terms and conditions of service of the workmen were settled by negotiation in 1954. There was a second settlement in September 1956 and a third settlement on 11th April 1963 regarding pay scales and other conditions of service. There was a further settlement regarding dearness allowance in March 1965. The Union terminated the settlements and made fresh demands by a letter dated 29th March 1966. Since 1963 the circumstances have materially changed. The Company has expanded its activities and its financial position has substantially improved. It has made large profits and paid good dividends. Profits for 1965 are substantially higher than in previous years. The business has increased from Rs. 3.18 crores in 1964 to Rs. 14.56 crores in 1965. The scales of pay, dearness allowances and conditions of service in other well established commercial concerns have been revised substantially during the last 3 years. The cost of living has gone up. The service conditions should therefore be revised. The existing scales of pay are not adequate and should be revised as asked for. In the past, no adjustments were given. Adjustments are usually given by Tribunals. The existing wage scales are as follows :—

Grade I :—Sweepers and Cleaners.—30—2—50—3—65—EB—5—100.

Grade II :—Watchmen, Peons, Hamals or Packers.—30—3—60—5—90—EB—5—120.

Grade III :—Drivers.—60—5—120—EB—5—150.

Grade IV :—Junior Clerks, Stenos, etc.—75—7—110—10—210—EB—10—300.

Grade V :—Senior Clerks, Stenos, etc.—125—10—225—EB—12½—350—EB—15—395.

Grade VI :—Junior Officers.—145—10—195—EB—15—345—EB—20—485.

Grade VII :—Semiskilled Workers and Wiremen.—60—5—120—EB—5—150.

Grade VIII :—Mechanics—Grade A.—75—7—110—EB—10—190—EB—10—250.

Grade IX :—Mechanics.—Grade B.—108—8—180—EB—10—230—EB—12½—305.

Grade X :—Engineering A.—130—10—230—EB—12½—305—EB—15—380.

approximately per year. The existing emoluments are fair. In spite of the higher turnover of the Company the margin of profit has been steadily going down and the net profit after tax has not shown improvement. The number of the staff has gone up and the emoluments of the workmen have gone up from Rs. 9 lakhs to Rs. 18 lakhs in the last 6 years. The Company has to meet its obligations to the shareholders. It has not been able to maintain dividend on increased capital. It has to meet increasingly keen competition. The Company is a marketing, distributing and retailing organisation and should not be compared with manufacturers like G.E.C. and Phillips (India) Ltd., having international collaboration. It is necessary for the Company to build up adequate reserves. On a capital of Rs. 38 lakhs the reserves are only Rs. 11.75 lakhs. The Company revised wages, etc., in 1963. The dearness allowance was again revised in 1965. No material change has taken place in the Company's position which would justify drastic change in the service conditions of employees. The dearness allowance is already linked to the cost of living Index. The scales of pay are not less than those offered by others in the radio and electrical trade. By the settlement of 1963 certain adjustments were given. As regards the claim for dearness allowance even one year was not completed after the settlement of 1965 and the Union made demand for increase. No change is called for after such short interval. As regards the increase in cost of living the Company has no control over it and should not be called upon to bear the entire burden of increase in the cost of living especially when its financial resources are not in a position to bear the burden. The demands of the Calcutta Union are even more exorbitant than the demands of the Bombay Union. As regards the Madras Union's reliance on devaluation, the Company says that the impact of devaluation is much more on the profitability of the company. It is denied that the cost of living in Bangalore is the highest in India as alleged by the Bangalore workmen.

7. The Calcutta Union has filed a lengthy additional written statement. In it reference is made, *inter alia*, to the norms of the need based wage laid down by the Fifteenth Labour Conference, decisions of Courts, Report of the Fair Wages Committee, etc. The Company has filed a reply to this additional written statement.

8. Among the Exhibits produced by the Unions are the following :—
 Bombay Union : Ex. BU1 giving the financial position of the Company from 1960-65; Ex. BU2 giving the wage and salary scales and number of workmen in each category; Ex. BU3 giving names and other particulars of the staff, salary on joining, present salary, etc.; Ex. BU4 giving figures of wage and salary scales and minimum and maximum total emoluments in certain other Companies; Ex. BU5 which is annual Report and Balance sheet of Bradma of India Ltd., for 1964; Ex. BU6 which tabulates the burden of the demanded scales and adjustments; Ex. BU7 which is the settlement in John Fleming & Co., Ltd. The Delhi Union has produced Ex. DU1 giving the settlement of the Company with the

Union dated 14th May 1963 ; Ex. DU3 being the settlement in Phillips India Ltd. ; Ex. DU4 being the settlement in Brooke Bond India Private Ltd. The Madras Union has produced Ex. MU4(1) containing settlements in various Companies with the General Electric Co., Ltd. ; Ex. MU1 giving calculations of the need based wage according to the Resolution of the 15th Labour Conference ; Ex. MU2 giving particulars of workmen, years of service and existing wage scales ; Ex. MU3 to Ex. MU9 giving wage scales, dearness allowance and service conditions in settlements in certain Companies. The Calcutta and Patna Unions and the Bangalore workmen have relied on Exhibits giving settlements in certain Companies, viz., General Electric Co. Ltd., Hoare Miller & Co., Ltd., and Bird & Co., Ltd., Ex. CU5 giving fringe benefits in Scindia Steam Navigation Co., Ltd., Tata Iron & Steel Co., Ltd., etc. ; Ex. CU6 giving figures of the All India and Bombay Consumer Price Index ; Ex. CU7 analysing the financial position of the General Radio Co., Ex. CU10 calculating the burden of the demand regarding salary and dearness allowance ; Ex. CU11 giving the Consumer Price Index for Bangalore ; Ex. CU12 A and 12 B giving wage scales and dearness allowance in Bangalore and in certain other Companies ; Ex. CU13 giving comparative statements of dearness allowance paid in Madras and Bangalore, and the Consumer Price Index for Patna and Bangalore.

9. The Company has produced the following, among other, Exhibits:— Ex. C1 giving the balance sheets and profits and loss accounts of the Company from 1961 to 1965 ; Ex. CA showing the distribution of staff in the Head Office and Branches ; Ex. CB giving the figures of sales, earnings etc., of the Head Office and branches ; Ex. CC giving the figures of capital, turnover, profits, etc., of the Companies relied on by the Unions as comparative concerns, to show that they are not comparable with the General Radio Co. ; Ex. CD giving the salaries of clerks, peons, etc., in certain concerns considered by the Company to be comparable ; Ex. CG which is a settlement in Spencer & Co., Ltd., in regard to the Madras workmen of that Company ; Ex. CI giving the Consumer Price Index for various centres ; Ex. CJ to Ex. CJ9 in which estimate is given of the burden involved by the demands ; Ex. CO giving the dearness allowance paid at different offices of the Company during 1964-66.

10. It will be convenient first to deal with the demands relating to wage, scales, dearness allowance and adjustments. The balance sheets and profit and loss accounts for some years which have been produced, as well as the abstracts produced by the Unions of the financial position and progress of the Company, in particular Ex. BU1, show that the financial position is good. The Company has been making satisfactory profits. On a capital of Rs. 38 lacs the reserves amount to Rs. 11 lacs and odd. The turn over has increased from Rs. 2.09 crores in 1960 to Rs. 3.97 crores in 1965. The wage scales in the Company at its Head Office and branches are uniform. The dearness allowance is as stated

Grade XI :—Engineering B.—175—12½—250—EB—15—400—
EB—20—500.

The dearness allowance was fixed from 1st January 1963 as follows :—

On first Rs. 100 basic salary Rs. 80 or 70 per cent of the new textile scale whichever is higher.

On second Rs. 100 basic salary 20 per cent.

On third Rs. 100 basic salary, 10 per cent.

On fourth Rs. 100 basic salary 5 per cent.

On fourth Rs. 100 basic salary, and above 5 per cent.

The dearness allowance was revised by an agreement dated 30th March 1965 by which the minimum dearness allowance was fixed at 80 per cent of the textile dearness allowance on the first Rs. 100 with a minimum of Rs. 100 per month. The Union goes on to say that the cost of living Index for Bombay has gone up from 440 in 1963 to 600 in 1966. The dearness allowance is not adequate. Dearness allowance in other concerns is much higher. The increase in dearness allowance should be given from 1st January 1966.

5. The Unions for the workmen in other branches have made similar submissions. The Delhi Union refers to the increase in population of Delhi and the high rents and transport charges there. The existence of a large diplomatic corps and international business houses is referred to. The Union has asked for higher scale of basic wages for the Delhi employees than the Bombay Union, but at the hearing Shri Sharma who appeared for the Delhi workmen said that the workmen would be satisfied if the scales asked for by the Bombay Union, which were moderate and sanctioned. The Calcutta Union says that the workmen are victims of the two pronged attack of low income and ever rising cost of living. In its supplementary statement of claim the Union has referred to various decided cases on wage structure and to the resolution of the 15th Labour Conference on the need based wage. The Madras Union has also cited a number of decisions and has referred, among the change of circumstances justifying a revision of wages to the devaluation of the Rupee. The Patna Union has referred to the increase in the cost of living Index from 604 in 1964 to 836 in 1965. It has further stated that at Patna there is no proper conveyance facility and workmen have to spend considerable amount of money for coming to office and going back to their residence. In the statement of claim for the workmen in Bangalore it is stated that the cost of living Index in Bangalore is the highest in India, that the Company is in a position to bear the burden of the demands, that the Company has a bright future as the demand for radios, etc., is on the increase.

6. The Company has in its written statements replied, *inter alia* as follows :—The Company would be unable to bear the financial burden of the demands which would cost the Company to the tune of Rs. 7,85,000

in paragraph four above, which means that workmen drawing basic pay upto Rs. 100 per month get the 80% of the revised scale of dearness allowance applicable to the textile workers in Bombay. For slabs above Rs. 100 the addition is at a certain percentage, so that the dearness allowance for slabs above Rs. 100 does not vary according to the movement in the Consumer Price Index. This is the position in the Head Office and branches, except that in the branches at Patna and Bangalore there is a fixed dearness allowance of Rs. 100.

11. The Unions have relied on wages and dearness allowance prevailing in concerns such as General Electric Co., Ltd., Phillips India, Ltd., Greaves Cotton & Co., Ltd., Indian Oxygen Ltd., Voltas, Ltd., Imperial Tobacco Co. of India Ltd., British Paints, Ltd., Gillanders Arbuthnot & Co., Ltd., Simpson & Co., Ltd., Shaw Wallace & Co., Ltd., Bird & Co., Ltd., etc. The Company's case is that these are not comparable concerns. At Ex. CC. the Company has given the comparative figures of capital, reserves profits, etc., of such of the Companies cited by the Unions as were available to the Company. This Exhibit shows that most of these concerns with the possible exception of Marshall Sons, Ltd., are not comparable. Besides these concerns are in different industries, not carrying on the same or similar business as General Radio Co. On the other hand the Companies relied on by the Company for comparison, viz., Dobsons Private Ltd., Mahomed Ebrahim & Co., Ltd., C. C. Saha, Ltd., and Modern Trading Co., are much smaller in size and turn over than this Company and are also not comparable. In the case of *Williamsons (India) Private Ltd.*, (1962 L.L.J. Vol. I.P. 303). Their Lordships of the Supreme Court observed,

“This Court has repeatedly observed that in considering the question about comparable concerns, Tribunals should bear in mind all the relevant facts in relation to the problem. The extent of the business carried by the concerns, the capital invested by them, the profits made by them, the nature of the business carried on by them, their standing, the strength of their labour force, the presence or absence and the extent of reserves, the dividends declared by them and the prospects about the future of their business - these and all other relevant facts have to be borne in mind.”

12. The Unions have not produced evidence to show that the concerns relied on by them are comparable concerns. There is also another aspect of the matter. This is a trading concern, not a manufacturing concerns. It makes profits from the commissions earned on sales of radio and other products made by other Companies. In the case of manufacturing concerns the manufacturer may be able to pass on the burden of wage increases to the consumer in the shape of higher prices. But a trading Company cannot ask its principals to increase the rate of

commission because its wage structure has been increased. This is a factor that should be borne in mind.

13. Exhibits have been filed to show what would be the need-based wage. Tribunals have generally refused to award the need-based wage. In the case of the 100 year old Cotton Textile Industry the first Textile Wage Board considered it out of question to recommend the need-based wage for the employees in the cotton textile industry. In the case of the Reserve Bank, Supreme Court confirmed the decision of the National Tribunal refusing to award the need based wage. (1965 L.L.J. Vol. II., p. 175). In that case the Supreme Court observed,

“ Further the amount of minimum wage calculated on the need-base formula was said by the Pay Commission to be extraordinarily high. This was also the view of the Labour Appellate Tribunal in East Asiatic Company v. their workmen (1956 L.L.J. Vol. I p. 686). Both these documents contain valuable calculations and show that the enormous increase per saltum which would cause enormous unrest among workmen in general in the country. It is also to be noticed that the Reserve Bank, which Shri Chari claims to be the best employer, is not really the right place for the experiment. If the experiment has to be performed, it must have a beginning in a commercial concern after thorough examination and a very careful appraisal of the effect on the resources of the employer and on production.”

If the need based wage is not feasible in well established industries and in a concern like the Reserve Bank which the Union concerned claimed was the best employer it is still less feasible to award a need based wage in a trading Company. This is apart from the question that there are several ambiguities in the Resolution of the Fifteenth Labour Conference on the need-based wage, such as the type of diet to be included, etc.

14. The concerns relied on by the Unions are very large concerns, in other industries in which the dearness allowances were fixed long ago, when it was not expected that by linking every slab of basic wage up to Rs. 100 and above the dearness allowance would shoot up to the extent it has. To give dearness allowance along the lines such as is prevalent in concerns like Indian Oxygen, Ltd., Shaw Wallace & Co., Ltd., Voltas Ltd., Imperial Tobacco, etc., would not only mean an extremely high jump in the dearness allowance but it would be also beyond the capacity of a trading Company such as the General Radio Co., Ltd. In the course of the arguments Shri L. C. Joshi for the Company referred to the observations in the Draft of the Fourth Five Year Plan which are as follows :-

“ The main emphasis on price policy should be to ensure that a spiralling of costs, prices and money incomes through mutual

interaction is avoided..... efforts should be made for reducing the scope of automatic linkages between the cost and price increases, or between price and wage increases, that exist in the economy."

How is the wage price spiral to be avoided except by restricting indiscriminate linking of wages or dearness allowance with the Consumer Price Index? Wages fluctuating with the cost of Living Index are not unknown in other industrialised countries, but there steps have been taken to prohibit or restrict such linkages. It is stated in Bloom and Northrup's *Economics of Labour Relations*, at page 540, in the 1965 Edition,

"The inflationary potential of escalator clauses has been recognised by many foreign countries since the end of World War II, and many Governments, among them Chile, France, Australia, Austria, Belgium, Norway, Denmark, Sweden and Finland — have taken steps either to prohibit this type of wage adjustment or to restrict it in order to lessen its tendency to feed inflationary forces. In Austria and Belgium, for example, the cost of living index must rise by some minimum amount before wages are increased. In the Scandinavian countries, provision is made for a less than proportionate increase in wages, so that workers share part of the burden of inflation. In Chile changes in wages can be made only annually; and in Brazil every two years."

The authors go on to observe,

"Wage increase resulting from escalator clauses generally take place in manufacturing industries and therefore affect the prices of manufactured goods. When such prices rise, the cost of goods purchased by the farmer tend to rise, which in turn produces an increase in the price of farm products. To the extent that farm prices rise as a result, there will be a tendency for the consumer price index to rise, since food accounts for about one-third of the index. And once the consumer price index rises, the stage has been set for another increase in wages under escalator provisions in industry."

In Prof. Backman's book on Wage determination a similar view is expressed (at page 148). The author has stated,

"It seems obvious that wage escalation clauses adopted as a protection against increases in the cost of living help to bring about the price increases they are supposed to neutralise."

The author goes on to quote the well known British economist J. M. Keynes who observed in one of his books,

"A demand on the part of the Trade Unions for an increase in money rates of wages to compensate for every increase in the cost of living is futile, and greatly to the disadvantage of the

working class. Like the dog in the fable, they loose the substance in gaping at the shadow. It is true that the better organised sections might benefit at the expense of other consumers. But except as an effort at group selfishness, as a means of hustling someone else out of the queue, it is a mug's game to play."

In the case of the Calcutta Tramways (1956 L.L.J. Vol. II. p. 450) Their Lordships of the Supreme Court observed,

"We can now take it as settled that in matters of grant of dearness allowance, except to the lowest class of manual labourers whose income is sufficient to keep body and soul together, it is impolitic and unwise to neutralise the entire rise in cost of living by dearness allowance. More so in the case of middle classes."

While it is undeniable that where workers are drawing subsistence wages the dearness allowance may be linked so as to secure full neutralisation of the rise in the cost of living, in the case of wage earners who are drawing much above the subsistence wage (as in the case of this Company) it is necessary that even the minimum wage earner should bear some portion of the burden of inflation like other sections of the community, in particular rise in prices due to policy induced causes such as increased taxation, etc. More so in the case of the middle classes and dearness allowances in their case should not be so fixed as to secure a high degree of neutralisation and must taper off, if the wage price spiral is to be avoided. It has to be borne in mind that quite considerable sections of the community have to make sacrifices by going without adjustment of income to rises in the cost of living. Many years ago the Royal Commission on Labour had pointed out that it is obviously possible to raise the standards of living of sections of industrial workers by methods which would involve the diminution of the national income and the Fair Wages Committee had also observed that in adopting measures for the betterment of industrial workers the interests of the community as a whole should not be overlooked.

15. Since 1963 when the wage scales were fixed in this concern there has been a great rise in the cost of living. The Company has urged that the dearness allowance was increased from 70 per cent of the textile scale to 80 per cent as recently as 1965 and that further increase is not necessary. In my opinion, having regard to the capacity of the Company, the present dearness allowance is inadequate. There is also some scope for revision in the wage scales. In fixing the wage scales I have not considered it necessary or desirable to interfere with the existing classification in the Companies, except that I consider it necessary to have a separate grade for stenographers. I may add that in the course of the arguments the Unions which have demanded wage scales according to altered categories did not press that the existing classification should be altered. So also it is not feasible to fix any salary scale asked for the higher category of officers

who are obviously not workmen and whose salaries and dearness allowance were not governed by any previous settlements. ..

16. It might be mentioned here that while the Bombay Union has asked for dearness allowance as stated in paragraph 2(3) above, the other Unions have, in the demands referred to me for arbitration asked for dearness allowance on the following scale :-

<i>Basic salary</i>	<i>Dearness allowance</i>
Up to Rs. 100	D.A. for all days of the month at the revised textile scale on re-adjusted index numbers applicable to clerks.
on 2nd Rs. 100 ..	40 per cent
on 3rd Rs. 100 ..	30 per cent
on 4th Rs. 100 ..	20 per cent
on 5th Rs. 100 and above	10 per cent

Also in the statements of claim by the Unions other than Bombay it is this demand which is supported. At the hearing however the other union pressed for dearness allowance at the rate asked for by the Bombay Unions. I do not think it permissible for the Unions to ask for more than the demands referred to me for arbitration and which they have supported in their statements of claim nor would I have jurisdiction to grant such demand. It may also be noted that the Bombay Union had made a demand in the same terms as the other Unions in the demands dated 29th January 1966. Subsequently however the Bombay Union increased the demand relating to dearness allowance to what is set out in paragraph 2 (3) above.

17. I am unable to grant the demand that the minimum dearness allowance should be the Textile scale for all the days of the month. The Bombay textile scale is fixed on a daily basis and multiplied by the number of working days in the month. In the Award in the case of Associated Cement Companies (1961 I.C.R. 476) where a similar demand was made I observed,

“It may be noted that the workmen have demanded a minimum of the new textile scale for all days in the month. It is true that in a few Awards it has been directed that the minimum should be the textile scale for all days in the month, but no reason is given for this. The scale in the textile industry is applicable to textile workers, the large majority of whom are daily paid workers. It is calculated on the basis of the number of working days in the month and the same is paid to the monthly rated workmen. Awarding textile scale for all days in the month

means that dearness allowance for the weekly off is given twice over. If a higher dearness allowance than the textile scale is called for in an industry where the workers are paid by the month, it must be on some different basis or principle for the application of the textile scale for all days in the month is, for the reasons given above, anomalous."

The same view was taken in the case of the Bombay Gas Co., Ltd. (1965 I.C.R. 694 at Rs. 727). I reject the demand for the same reasons as well as the reason that the increase that I am giving in the dearness allowance is quite adequate.

18. Having taken into consideration the pleadings, exhibits filed and the arguments I revise the wage scales as under with effect from 1st June 1966.

Sweepers and Cleaners	Rs. 30—2½—50—3—65—E.B.—5—100.
Watchmen, Peons, Hamals and Packers.	Rs. 33—3—60—5—90—E.B.—5—120.
Car and Truck Drivers	Existing grade of Rs. 60—5—120—E.B.—5—150 is adequate. No change.
Junior Clerks, Typists and Salesmen	Rs. 85—7½—100—10—210—E.B.—12½—310.
Senior Clerks	Rs. 140—12½—215—15—350—E.B.—15—410.
Junior Stenographers	Rs. 110—12½—210—E.B.—15—315.
Senior Stenographers	Senior Clerical Scale.
Semi-Skilled Workers and Wiremen.	Existing grade of Rs. 60—5—120—E.B.—5—150 is adequate. No change.
Mechanics Junior	Rs. 85—7½—100—10—200—E.B.—12½—250.
Mechanics Senior	Rs. 120—10—180—12½—230—E.B.—15—320.
Engineering B	Rs. 140—12½—215—15—3—5—E.B.—15—395.
Engineering A	Rs. 190—15—340—20—400—E.B.—25—525.

(Note :—There are none in the last two categories in Bombay. The grades for these categories have been asked for by the other Unions).

The staff will be entitled to their next increment from the date on which they would get it under the existing arrangement. As regards adjustments it has been urged by the Unions that as no adjustments were given under earlier settlements adequate adjustments as demanded should be given. On behalf of the Company it is stated that as it is not that the wage scales are being fixed for the first time no adjustment increments should be given. I direct that the existing staff should be fitted in those grades which have been revised, in the following manner. Those who have been drawing less than the minimum of the revised scale should be given the minimum. Those who have been drawing basic pay equal to or more than the minimum of the revised scale should be given the same basic pay in the revised scale, or if their basic pay is not a step in the revised

scale, be stepped up to the nearest point in the revised scale, with the addition of one increment if they have completed 4 years' service in their present grade on 1st June 1966.

19. I revise the dearness allowance with effect from 1st June 1966 as follows :-

<i>Basic wage salary</i>	<i>Dearness allowance</i>
On 1st Rs. 100	Revised Bombay Cotton Textile scale for working days in the month, for workmen in Bombay, Calcutta, Delhi and Madras and at 90 per cent of this scale for workmen in Bangalore and Patna.
On 2nd Rs. 100	40 per cent
On 3rd Rs. 100	30 per cent
On 4th Rs. 100	20 per cent
On 5th Rs. 100	10 per cent

Minimum dearness allowance 93 per cent of the revised Bombay Cotton Textile scale for working days in the month, for workmen in Bombay, Calcutta, Delhi and Madras, and at 83 per cent of this scale for workmen in Bangalore and Patna. The arrears of pay and dearness allowance payable under this Award should be paid within two months of the publication of this Award. The dearness allowance for a month should be rounded off to the nearest Rupee, half a Rupee or fraction of a Rupee to be omitted, fraction over half a Rupee to be counted as one Rupee.

Demand No. IV :

20. In support of the demand relating to Provident Fund, the Bombay and Delhi Unions have stated that having regard to the sound financial position of the Company and higher Provident Fund in a number of concerns the rate of contribution should be increased to 8½ per cent. The present rate of Provident Fund does not give adequate retirement benefit. The Madras Union has stated that the present rate of Provident Fund does not give adequate relief at the time of retirement and that increase in Provident Fund will mean indirect savings to the workmen in the period of emergency. The Calcutta Union has stated that the Provident Fund has been increased to 8 1/3 per cent in a number of industries. The Bangalore Union has stated that the concept of social justice demands that the rate of Provident Fund should be increased. The Patna Union has made an additional point that it is not possible for workmen to save anything from the scanty wages.

21. The Company has replied as follows : The present rate of contributions is 6½ per cent of the basic salary and dearness allowance or 8 1/3 per cent of the basic salary, whichever is higher. No change should

be made in the statutory rate of contributions. It is the Government's policy to raise the Provident Fund on a phased basis, but commercial establishments are not required to raise the contributions to 8 per cent. In the French Motor Car case the Supreme Court set aside the decision of the Arbitrator Shri P. D. Sawarkar increasing the contribution to 8 per cent.

22. The rate of Provident Fund contribution of the employer under the Employees' Provident Funds Act is 6 1/4 per cent. Government has power by issuing a Notification for particular industries to direct that the contribution should be raised to 8 per cent. In the case of the French Motor Car Co., Ltd., (1962 L.L.J. Vol. 11 page 744) the Supreme Court set aside an Award in that Company raising the contribution from 6 1/4 per cent to 8 1/3 per cent of the emoluments. The rate of contribution for this industry under the Act is 6 1/4 per cent. Government has not raised the contributions for this industry and it seems to me that if the contribution for this industry is raised it would have to be on an industry-wise basis and I would not be justified in singling out for the purpose this particular concern in the industry which has already the double benefit of a gratuity and Provident Fund scheme. The demand is rejected.

23. Demand No. V is in respect of leave rules. A similar demand has been made by the Unions of all the other branches. In support of the demand the Calcutta Union has made the following submissions :— Enactments on the subject of leave prescribe minimum leave. The importance of leave and holidays for workmen in industries and holidays for the purpose of improving efficiency of the workmen was recognised by the Labour Investigation Committee of the Government of India in 1946. The Delhi Union says that the existing leave facilities are not adequate. The Patna Union has given no particular reasons in support of the demand. The Madras Union says that it is the usual practice in commercial establishments to give 30 days' privilege leave and 15 days' casual leave. The Bangalore workmen have stated that workmen can put their best efforts in work if they are given sufficient rest, that the demand is reasonable that if granted it would help the Company in carrying out its work without much interruption and with less costs.

24. *The Company has replied as follows :—*The existing leave rule are as follows :—

Annual leave 21 days.

Sick leave 12 days.

Casual leave 12 days.

Privilege leave is allowed to be accumulated to 42 days and sick leave to 24 days. The Company goes on to say that the leave provisions are adequate and more favourable than those in other similar establishments.

The existing provision for accumulation of leave is as provided by the Local Shops and Establishments Act.

25. I am of the view that the existing facilities rules are quite adequate and no increase is called for. It is not shown that the totality of leave privileges is less than in comparative concerns. In an article on Annual Vacations with Pay in the International Labour Review of August 1962 it is stated,

“ About 60 per cent of all the countries covered in this study (47 out of a total of 77) fall in the group where an annual vacation of two weeks is the standard. In 30 countries, legislation at the national level prescribes for workers in general, or at least for all workers in industry and in commerce, a basic minimum annual vacation of at least two weeks in respect of their first year of service. In the eight others, although there is no legislation at the national level providing for a minimum of two weeks of annual vacation for all workers, the bulk of those employed in industry and commerce do enjoy such a minimum annual vacation. In 16 of the 47 countries in the two-week vacation group there are also provisions which require the length of the annual vacation to be increased after years of service. the most common increase in the length of vacation for adult workers is to three weeks after five, eight or ten years' work, and then to four weeks after further years of service.”

The number of paid holidays in the Western Countries range to about 6 (as against 13 to 16 in this Company). The totality of existing leave privileges in this concern does not only come to very many more non-working days than in the other industrialised countries but to compare favourably with the total leave privileges in concerns of this size in India. The demand is rejected. The demand that unsued casual leave should be allowed to be encashed is also rejected.

Demand No. VI

26. In support of the demand the Bombay Union has stated that the Company gives about 17 holidays including 4 or 5 sectional holidays. As in other commercial establishments all Bank holidays should be given. The other Unions have made similar submissions. The Madras Union has made a particular point that South Indians have a number of festivals and being very religious minded have to observe the festivals.

27. *The Company has replied as follows :—*The Company gives about 16 paid holidays including sectional holidays. The Company is not a commercial establishment but a trading house and has to maintain a showroom. If more holidays are given it will seriously impair efficiency and affect the Company's business.

28. It might be mentioned here that the Company also gives 21 days' privilege leave in a year, 12 days' sick leave and 12 days' casual leave. The total number of non-working days in this concern is therefore already large. In the book by a foreign observer V. C. Kennedy on Unions, Employers and Government the writer has commented, at pages 119 and 120 on the generous provisions for paid holidays, privilege leave, casual leave and sick leave in Indian concerns which have the total effect of reducing the number of mandays from work each year and has gone on to say that if India can afford to show so little concern about these more serious causes of loss, she can afford to be more tolerant of the smaller costs of strikes. In the case of Lever Bros. (I.C.R. 1952 p. 901) the Industrial Tribunal, Bombay observed,

"The number of holidays observed in this country is far too many. In the case of industrial workers, various leave provisions are now made for annual, sick and casual leave which compare favourably with similar provisions in Western countries. A stop must therefore be made to any extension of holidays..... In the present economic conditions of our country, in our opinion, if an industry is in a position to bear some additional burden, it is better to give the workers some additional wages or improve their conditions of service, rather than increase the number of holidays. In the case of Cipla Ltd., (1964 I.C.R. 711) a pharmaceutical concern, the Industrial Tribunal reduced the paid holidays from 21 to 10. In the case of Pfiser, (Private) Ltd., Bombay and its workmen (1963 I.C.R. 281) the Supreme Court observed on the need for reducing holidays." In the case of the Associated Cement Companies (1964 L.L.J. Vol. I. page 12) which related to the commercial establishment of the Head Office of the Company in Bombay the Industrial Tribunal reduced the holidays from 26 to 21. On an Appeal the Supreme Court reduced the number further to 16. In another recent case (1966 I.C.R. p. 291) relating to the clerical staff in the Burma Shell Refineries the Industrial Tribunal reduced the holidays from 17 to 12. In this connection it is also relevant to refer to the Report of the Second Pay Commission which observed, "All those who have expressed any opinion on the subject have, with the exception of employees themselves (but not ex-employees) suggested curtailment of public holidays. There is, in fact, a widespread feeling among those who take intelligent interest in these matters that there are far too many holidays in this country, that these are not all necessary for religious or traditional social observances, and in short many of the public holidays are only a pretext for idleness which the country can ill afford "

29. At the hearing the Company gave the list of existing holidays and gave a list (Ex. K2, K4, K6, K8 and K12) of the 16 holidays which it has offered to give at the various offices and branches. In my opinion

this offer is altogether satisfactory and I direct that these 16 holidays should be given in a year. If any holiday fixed falls on a Sunday no other holiday need be given.

Demand No. VII—

30. *The Bombay Union has stated as follows :—*Under the existing gratuity scheme the benefit is as under :—

For service up to 10 years .. Half a month's basic salary for each completed year of service.

For service of 10 years and over .. Three-fourths of a month's salary for each completed year of service.

In case of resignation the minimum qualifying period is 15 years. The only change demanded is that a workman dismissed for misconduct shall also be paid gratuity except to the extent of the financial loss caused by him. The other Unions have made a similar demand. At the hearing the Company's representative did not object to a suitable provision being made, in view of decisions of the Supreme Court on the subject. I direct that a workman dismissed or discharged for misconduct should not be disentitled to gratuity, but in the case of a workman discharged or dismissed for misconduct causing financial loss to the Company the loss shall be deducted from the gratuity otherwise payable and only the balance, if any, will be payable.

31. The Calcutta, Madras and Patna Unions have made a demand to increase the benefit of the existing gratuity scheme as follows :—

“ In the case of death, disability, or termination of employment by the Management all employees shall be paid gratuity—

(i) For service up to 10 years, $\frac{3}{4}$ of a month's salary for each year of completed service.

(ii) For service up to 15 years and more, one month's salary for each year of completed service.

Salary for purposes of gratuity shall be the last salary drawn by the employee concerned.

(iii) In case of resignation by an employee, the minimum qualifying period of service shall be five years of continuous service.”

The Delhi Union has asked for a minimum qualifying period of 5 years in gratuity case of resignation.

In support of the demand the Unions which have asked for increased benefits have submitted that the existing gratuity scheme does not give

adequate benefit. The Company opposes any increase in the benefits of the gratuity scheme.

32. In my opinion the existing gratuity scheme is adequate. Gratuity schemes are usually in terms of basic wages and not gross salary. Besides it is not shown that comparable concerns give more gratuity benefits'. The demand for increasing the benefits of the gratuity scheme is rejected. The only change that I would direct is that in the case of termination of service by retrenchment, the gratuity will be payable in addition to retrenchment compensation payable under the Industrial Disputes Act. A demand for this change is implied in the demands by all the Unions for gratuity. I direct accordingly. The demand that the qualifying period of gratuity in case of resignation should be reduced to 5 years' service is rejected.

Demand No. VIII.

33. In support of the demand the Bombay Union has stated as follows :—At present the Company gives no medical facilities. Earnings of workmen are not adequate to meet medical expenses. In a number of concerns, such expenses are allowed. The other Unions have made similar submissions.

34. *The Company has replied as follows :—*In fixing wages and dearness allowance medical expenses are included. Such a practice as is demanded does not exist in any comparable firm. It is ordinarily the responsibility of the State and Municipal authorities to provide medical benefits.

35. The issue has been discussed by me in my Award as Industrial Tribunal in the case of Macmillan & Co., Ltd. (1965 I.C.R. 1034). Therein I observed,

“ The provision of hospitals and medical facilities is the primary responsibility of the State. A proper wage structure provides for expenditure for medical treatment and the cost of living indices include a figure of expenditure in respect of medical treatment, but it cannot be said that even in industries in which dearness allowance is linked to the index the emoluments would enable a workmen to meet unforeseen expenditure on account of prolonged or serious illness. While the provision of hospitals and medical facilities is the primary responsibility of the State, it would not be unreasonable to take the view that the employer is also interested in maintaining a healthy work force and a number of employers have voluntarily introduced some system of medical facilities. It would be a good thing if this type of welfare measure are introduced voluntarily, but if a dispute does come up for adjudication each case would have to be considered

on its own merits. Such disputes would only come up in industries to which the Employees' State Insurance Scheme does not apply and when such a dispute does come up all relevant factors including the capacity of the concern may be taken into consideration. If provision for medical benefit is granted it should be usually on a contributory basis as in the E.S.I. Scheme. That would also prevent abuses and extravagance at the cost of the employer."

36. The Company has capacity to give some medical benefits. At Ex. CY the Company made certain proposals for a contributory medical benefit scheme which were not acceptable to the Unions. I direct as follows :—

In the case of the subordinate staff two-thirds of the expenditure on medicines (including patent medicines or injections) prescribed for them by a registered medical practitioner should be borne by the Company (the remaining by the workmen concerned) subject to a maximum of Rs. 40 to be borne by the Company in a calendar year. Bills should be accompanied by a certificate of a registered medical practitioner for the treatment. In the case of staff other than subordinate staff, the same directions would apply except that the abovementioned figure should be Rs. 65 instead of Rs. 40. These directions shall have effect from the calendar year 1967 and will cease to have effect from any date on which the Employees' State Insurance Scheme comes into force in respect of the workmen concerned in these references. The demand for medical benefits for the families of workmen is rejected.

Demand No. IX

37. In support of the demand the Bombay Union has stated as follows :—Peons, packers, watchmen and drivers are given two sets of uniforms a year and the Company gets them washed once a week. Two sets are not adequate. Four sets should be supplied and the Company should get them washed twice a week. The Delhi Union has stated as follows :—The Company supplies two sets of summer uniforms and one set of winter uniform (woollen) every alternate year. Uniforms should be supplied not later than 15th March and the winter uniform not later than 15th October. The Calcutta Union has demanded that four sets of summer uniforms should be given in a year and one set of winter uniform should be given every alternate year. The Madras and Patna Unions have asked for four sets of uniform and for washing twice a week.

38. *The Company has replied as follows:—*Certain categories of employees are given two pairs of Khaki trousers and two pairs of khaki tunics. The Company has made arrangements to get them washed every week. This is the normal practice in commercial establishments and there is no need to give 4 uniforms or to get them washed twice a

° week. In reply to the Calcutta Union the Company has filed an additional written statement at Ex. CS. in which it is stated that one winter uniform is given once in 3 years and 2 summer uniforms every alternate year. If any peon represents that his uniform has gone bad before the end of the term, new uniform is sanctioned. Last year 6 peons were given extra uniform.

39. Having taken into consideration the submissions I am of opinion that in branches where a winter uniform is supplied once in three years and 2 summer uniforms are given every alternate year, 2 summer uniforms should be given every year. I direct accordingly. In the head office and branches where certain categories are supplied with two uniforms a year and no winter uniform, the number should be increased to three. The existing arrangements according to which the Company arranges to get them washed should continue. As regards the demand of the Delhi Union that summer and winter uniforms should be supplied before a particular date, the Company's representative gave an assurance at the hearing that uniforms which are due would be supplied in time. On this the Union did not press for the demand.

Demand No. X

40. In support of the demand the Bombay Union has stated as follows:—The Company gives umbrellas to parcel delivery peons and drivers who go on outdoor duty, and rain coats to bill collectors. The Union demands that all employees who go on outdoor duty should be given an umbrella and raincoat once in two years. The Patna Union has made a similar demand.

41. *The Company has replied as follows:*—Certain categories of employees who are regularly on out door duty are supplied with umbrellas or raincoats at the Company's expense. This is in accord with the prevailing practice in similar establishments in Bombay. It is therefore not necessary to supply both umbrellas and raincoats.

42. The practice of the Company is reasonable and I see no sufficient reason to grant this demand. It is rejected.

Demand No. XI

43. Washing allowance to Salesmen. In support of the demand the Bombay Union has stated that there are about 6 salesmen in Bombay. They are required to be clean and tidy. Washing allowance of Rs. 10 per month should be given to them. The other Unions have made similar submissions.

44. The Company has replied as follows:—Salesmen are paid adequately taking into consideration the duties they have to perform in

show-rooms. Their clothes do not get soiled. It is not necessary to provide them with uniforms at the Company's expense. Such a practice as is demanded does not prevail in similar establishments.

45. Having considered the submissions of both sides I see no sufficient reason to grant this demand. Uniforms and washing allowance are usually given by Awards where the nature of the work is such that the clothes get particularly soiled. No case has been cited before me in which uniforms or washing allowance have been awarded for salesmen, and I see no reason to introduce a new practice. The demand is rejected.

Demand No. XII

46. *Travelling charges.*—In support of the demand the Bombay Union has stated as follows :—A workman should be encouraged to go on privilege leave for health and recuperation. Some Companies give travelling allowance to employees going on leave to their native place or other place for recuperation. Therefore all workmen and their families should be paid Second Class train travelling charges once in two years for going to out-station and coming back from the native place or other place up to a distance of 1,000 kilometres. The other Unions have made similar submissions. The Patna Union states that employees come from different States and they have to take loans to enable them to go to their native place, that the Company should encourage workmen to go on leave for recuperation.

47. *The Company has replied as follows* :—It is true that in certain highly prosperous concerns such an allowance is paid but this is done on voluntary basis and has not been the subject matter of an industrial dispute. When such a demand has gone to Tribunals, it has been rejected. The demand if granted would put a heavy burden on the Company.

48. The demand for such a facility was rejected by the Sastry Banks Tribunal. It observed that the employees are generally recruited from and work in their home towns or at places not very far off and that the demand had not found favour in any adjudication known to the Sastry Tribunal. The Desai Tribunal directed that A Class Banks should give the facility of leave fare concession once in 3 years. Except this Award I have not come across any case in which such a demand was granted and I am in agreement with the Sastry Tribunal's view referred to above. There is one old case of Rallis India Ltd., (1952 L.L.J. Vol. II. page 441) where such a demand was granted for the employees to visit Madras State on the ground that such allowance was given by the Company in Bombay and Calcutta and the Company expressed its willingness to extend the concession to the workmen. So it is seen that the demand was granted for very special reasons. The Reserve Bank gives such a concession to employees up to the place of domicile up to 750 miles. But it has to be borne in mind that in the case of the Reserve Bank and A Class Banks

the employees are transferable from one place to another. In a Company like this the employees are mainly recruited locally and transfers are very rare. In any case I do not think that on principle such a demand should be granted. The wage structure of Companies in India is overlaid already with too many fringe benefits which increase the cost of production of goods and services, and the wage structure should not be further inflated by this additional type of fringe benefit. If a concern can afford to bear the burden it should be imposed by increase in salaries and dearness allowance and not by this type of benefit. The demand is rejected.

Demand No. XIII—

49. *Lunch Allowance.* In support of the demand the Bombay Union has stated as follows :—The Company gives lunch allowance at the rate of Re. 1 to peons and drivers and Rs. 1.50 to clerks when they are sent out on the Company's work at lunch time. The amount is inadequate. All employees working in lunch time should be given lunch allowance of Rs. 1.50 per day. The Delhi Union has stated that the lunch allowance given to peons is 75 paise. The amount should be increased to Rs. 1.50. The other Unions have made similar demands.

50. *The Company has replied as follows :—*The Company pays Re. 1 to peons and drivers and Rs. 1.50 to clerks as lunch allowance when they are sent out on the Company's work during lunch hour at short notice. This matter should be left to the Company and no directions are called for.

51. Having considered the submissions of both sides I am of the view that the lunch allowance is adequate. The demand is rejected.

Demand No. XIV—

52. *Retirement age.* In support of the demand the Bombay Union has stated as follows :—The existing retirement age is 58 with two years' extension at the discretion of the management. Having regard to the decisions of the Supreme Court in the Dunlop, I.C.I. and Shaw Wallace case the retirement age should be 60. The Calcutta Union has stated that the trend now-a-days is to have 60 as retirement age ; that the Supreme Court fixed 60 as retirement age in the British Paints case (1966 L.L.J. Vol. I. p. 407). The Madras, Patna and Bangalore Unions have made similar submissions. The Bangalore workmen have in their written statement stated that the span of life has increased on account of improved standard of living and preventive health measures.

53. *The Company has replied as follows :—*The existing rule is of retirement at the age of 58 with discretion to the Company to give extension up to 2 years. In a few commercial organisations the retirement age is 60, but this is a trading establishment. In trading establishments the retirement age varies from 55 to 60. The present rule is reasonable and should not be changed.

Having considered the submissions of both sides I direct that the age of retirement should be raised to 60.

Demand No. XV—

54. *Working hours. In support of the demand the Bombay Union has stated as follows :—*The existing hours are from 9-30 A.M. to 6 P.M. with one hour recess on week days and 9-30 A.M. to 1-30 P.M. on Saturdays. The weekly working hours are therefore 41½. Normally the weekly working hours in commercial establishments are 36. There is no such demand by the Delhi and Calcutta Unions. In Delhi the working hours are 39. The Madras Union has made a similar demand and has stated that workmen find it difficult on account of these working hours to attend to their domestic needs. The working hours should be 9-30 A.M. to 5 P.M. with an hour's recess and 9-30 A.M. to 1 P.M. on Saturdays. The Patna Union says that efficiency of workmen would increase if the working hours are reduced. The Bangalore workmen have stated that the normal weekly working hours in commercial establishments are 36.

55. *The Company has replied as follows :—*This is a trading organisation and should not be put on par with commercial establishments. It is necessary to keep the business premises open as per custom prevailing in the electrical and radio trade in Bombay. In view of this no change should be made in the working hours. It would jeopardise the competitive position of the Company if the demand is granted.

56. In the case of *May & Baker Ltd.*, (1961 L.L.J. Vol. II Page 94) where the working hours were well below those fixed by the Delhi Shops and Establishments Act, the Supreme Court set aside the order of the Tribunal reducing the working hours by half an hour every day. The Shops and Establishments Acts of the various States prescribe a maximum of 48 working hours in the week. The hours in this concern being are well below these. There is a crying need in this country for increase in production of goods and services, particularly when the number of non-working days in the shape of holidays, casual and privilege leave, etc., is already large. The demand is rejected.

OVERTIME WAGES

57. This demand is made by the Delhi Union in the following terms:-

“Overtime wages should be paid at double the basic salary plus D.A. to all employees entitled for the same.”

The Union says that the demand is in accordance with Section 8 of the Delhi Shops & Establishments Act and the Supreme Court judgement in the case of the B.O.A.C. (The citation of the Law Reporter of this

judgment is not given). The Calcutta Union has demanded that overtime should be paid at double the basic wage *plus* D.A. instead of $1\frac{1}{2}$ times as at present. It says that the provisions of the Shops and Establishment Act are no bar to granting this demand since that Act prescribes minimum. Many commercial establishments pay overtime at the rate demanded. The Bangalore Union has stated that there is no practice to pay overtime to the staff and it should be given as demanded.

58. *The Company has replied as follows :—*The granting of overtime wages is governed by the provisions of the Shops and Establishments Act and need not form an item of staff demands.

59. The Shops and Establishments Acts of the different States prescribe rules regarding overtime. The Company has at Ex. CH. given particulars of the rate of overtime paid. It is stated that the Company pays overtime for work done after the Company's normal working hours at the statutory rate although the Acts prescribe overtime rates for the period over the statutory working hours. The demand for overtime at rates higher than those prescribed by the local Acts is rejected.

ALLOWANCE TO CASHIER

60. The Calcutta Union has demanded an allowance of Rs. 30 per month to the Cashier on the ground that he has to undertake heavy responsibility and risk of handling cash. At present the cashier does not get special pay or grade. A similar demand has been made by the Patna and Bangalore Unions.

61. *The Company has replied as follows :—*The grade in which the cashier is placed takes into consideration the nature of his duties and responsibilities. The demand is therefore opposed.

62. Where the Cashier is put in the Senior grade, I do not think it necessary that he should be given any special pay, for the pay of the grade takes into consideration the duties and responsibilities. I direct that where the Cashier is in the Junior grade he should be given a special monthly allowance of Rs. 20 with effect from 1st June 1966.

FESTIVAL ADVANCES

63. The Calcutta Union has demanded that an advance equal to one month's total wage should be paid to all employees for any festival during the year and recovered by 6 instalments. The present system is to give one month's basic pay only and recover in 4 instalments. The Madras, Bangalore and Patna Unions have made a similar demand.

64. *The Company has replied as follows* :—Advance to staff is generally decided on merits in the case of individual establishments. The demand is bad in principle. If the demand is granted it means paying advances at different times to employees belonging to different religions and also employees of the same religion on different festivals.

65. Having considered the view points of both sides I see no good reason to concede the demand. This is a matter that should be governed by the discretion of the Company which would have to be exercised according to the circumstances of each case. The demand is rejected.

Travelling Allowances

66. The Calcutta and Madras Unions have asked for an increase in the rate of travelling allowances. In the statement of claim by the Calcutta Union it is stated that conveyance and cooly charges have gone up, that employees have to spend substantial amounts on travelling. The Madras Union has stated that the existing travelling scheme is inadequate in view of the increase in the cost of travelling and cost of living.

67. According to the Company the existing rates of daily allowance and travelling allowance are adequate. They are given in Ex. CQ. The existing rates are as follows :—

Travelling allowances for the employees other than area representatives.

Basic salary up to Rs. 150	.. 3rd Class Railway fare and Rs. 5 per day.
Basic salary Rs. 151 to 225	.. 2nd Class Railway fare and Rs. 10 per day.
Basic salary above Rs. 225	.. 1st Class Railway fare and Rs. 12 per day.

The charge demanded is that the daily allowance should be increased to Rs. 10, 15 and 18 respectively. The rates were fixed in 1963. Since then the cost of living has gone up a great deal. I direct that the allowances of Rs. 5, 10 and 12 should be increased to Rs. 6/50, 11 and 13 respectively with effect from the date of publication of this Award.

Promotions and Upgradings

68. The Calcutta, Delhi and Bangalore Unions have demanded that 50 per cent of clerks should be promoted to the next higher grade on seniority basis. The Patna Union has demanded that promotion for the

higher grades shall be made on seniority basis and 80 percent of the vacancies for the higher grades should be filled by promotions of the existing employees.

69. In support of the demand the Calcutta Union has stated that if higher posts are filled on seniority basis it would be beneficial both to the Company and the management. Workmen of lower grade would try to develop qualities for higher responsibility. Outside recruitment would impair general efficiency. Recruitment from outside disturbs peace and harmony in the industry. The Delhi Union has submitted that promotions and upgrading are not properly made at present. Sufficient promotional opportunities are necessary to encourage hard work. Therefore upgrading of 50 percent of clerks, mechanics and stenographers on seniority basis would be reasonable. The Patna Union has made similar submissions.

7. *The Company has replied as follows*:—There is no justification for demanding promotion of 50 percent of the staff. It is true that as far as possible promotions are to be made on the basis of seniority-cum-efficiency from the existing staff, but it is absurd to suggest that 50 percent of the staff of the junior grade should be promoted to the senior grade. Besides promotion is a management function. Apart from this the Company would not be able to bear the burden of the demand and it would create misunderstanding among the staff and hamper the smooth working of the Company.

71. In the case of Brooke Bond India Private Ltd. (1966 L.L.J. Vol. I. page 402) the Supreme Court held that generally speaking promotion is a management function; but there may be occasions when a Tribunal may have to interfere with promotions made by the management where it is felt that persons superseded have been so superseded on account of *mala fides* or victimisation. The Company recognises that it is desirable to appoint to higher posts from the existing staff. There may however be cases when it may be necessary to have recruitment from outside and the Tribunal would not be justified in laying down any iron rule banning recruitment from outside. As regards the demand that 50 or more per cent of the staff should be promoted to the higher grade it is not reasonable. Promotions to the higher grade would depend on the vacancies in the higher grade, the merits of the employees etc. The demand is rejected.

72. At the hearing the representative of the Delhi Union pointed out that in Bombay some mechanics and clerks are in the Senior scale, while in Delhi not a single clerk or mechanic is in the senior scale, that the mechanics in other branches do the same type of jobs while in Delhi, the senior most mechanic of 9 years' standing is in the junior grade.

73. It is desirable that there should be some balance between posts in the higher grade and posts in the lower grade, and where there are two

categories of posts one in the higher grade and one in the lower the higher posts should not be on paper only. There may be very special cases where the Tribunal may be justified in fixing a proportion of higher posts, but in the present case I do not feel justified in giving such a direction.

74. At the hearing it was pointed out by the Delhi Union representative that in the Delhi branch, out of a staff of 43 there are no categories of workmen in the senior grade. At the hearing it was stated on behalf of the Company that it recognises that employees of proved merit and experience should have avenues for promotion and that the higher grades are not meant to be on paper only. The Company's representative agreed at the hearing to look into the grievances of the Delhi Union on the point raised and take appropriate action. Thereupon the Union representative did not press for the demand. No direction is therefore necessary. I direct that if there is any such legitimate grievance from the other branches which have raised this issue the Company should similarly look into the grievances and take appropriate action.

Bombay,
9-1-1967.

M. R. MEHER.

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Arbitrator.

ORDER.

Bangalore, dated 24th January 1967

S. O. 338.—WHEREAS by State Government Order No. LMA 590 LLE 66, dated 30th December, 1966, the arbitration agreement entered into between the workmen and the management of the General Radio and Appliances Limited, 36/79, Silver Jubilee Park Road, Bangalore City, agreeing to refer the dispute for arbitration to the Arbitrator, Shri M. R. Meher, I.C.S. (Retired), Bombay-18 was published ;

AND, WHEREAS the Arbitrator has submitted to the State Government his award in respect of the said Industrial Dispute ;

Now, THEREFORE, in exercise of the powers conferred by section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette*.

[No. LMA 590 LLE 66].

By Order and in the name of the Governor of Mysore,

G. G. PUROHIT,
Under Secretary.